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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
CENTRAL VALLEY AUDITORIUM  
SACRAMENTO, CALIFORNIA

TUESDAY, JULY 18, 2006  
9:30 A.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chair

Ms. Rosalie Mul

Ms. Cheryl Peace

Mr. Gary Petersen

STAFF

Ms. Julie Nauman, Acting Executive Director

Mr. Elliot Block, Staff Counsel

Mr. Richard Castle, Staff

Ms. Kristen Garner, Executive Assistant

Mr. Jim Lee, Deputy Director, Special Waste Division

Mr. Howard Levenson, Deputy Director

Mr. Jon Myers, Assistant Director, Public Affairs Office

Mr. John Smith, Branch Manager, Recycling Business  
Assistance

Ms. Lorraine Van Kekerix, Acting Deputy Director

Mr. Scott Walker, Branch Manager, Remediation, Closure, &  
Technical Services Branch

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON BROWN: It's so quiet, I guess that  
3 means it's time to call the meeting to order.

4 Kristen, can you call the roll?

5 EXECUTIVE ASSISTANT GARNER: Danzinger?

6 Mulé?

7 BOARD MEMBER MULÉ: Here.

8 EXECUTIVE ASSISTANT GARNER: Peace?

9 BOARD MEMBER PEACE: Here.

10 EXECUTIVE ASSISTANT GARNER: Petersen?

11 BOARD MEMBER PETERSEN: Here.

12 EXECUTIVE ASSISTANT GARNER: Wiggins?

13 Brown?

14 CHAIRPERSON BROWN: Here.

15 Would like to let everybody know unfortunately  
16 Pat Wiggins had a family emergency and can't be with us.  
17 And Member Danzinger is serving our country and fulfilling  
18 his two weeks of duty as a commanding officer of his new  
19 unit. So we wish him well and congratulate him on that  
20 great success.

21 Would like to remind people to please turn your  
22 cell phones into the vibrate mode. If anybody is wishing  
23 to speak on a particular agenda item, speaker slips are in  
24 the back of the room. Please fill them out and bring them  
25 up to Kristen.

1           Would like to stand and do the Pledge of  
2 Allegiance. Member Peace, would you lead us in the  
3 Pledge.

4           (Thereupon the Pledge of Allegiance was  
5 recited in unison.)

6           CHAIRPERSON BROWN: Thank you.

7           Do we have any ex partes to report at this time?

8           BOARD MEMBER MULÉ: Up to date, Madam Chair.

9           BOARD MEMBER PEACE: I'm also up to date.

10          BOARD MEMBER PETERSEN: Yes. I'm up to date.

11          CHAIRPERSON BROWN: Great. Thank you.

12          We will go immediately to our Executive  
13 Director's Report and go to our Acting Executive Director,  
14 Julie Nauman.

15          ACTING EXECUTIVE DIRECTOR NAUMAN: Good morning.  
16 Thank you, Madam Chair. And good morning, Board members.

17          BOARD MEMBER PETERSEN: Julie, excuse me. I'm  
18 sorry. I talked to three people before the Board meeting.

19          CHAIRPERSON BROWN: Gosh, Gary.

20          BOARD MEMBER PETERSEN: It's ADD.

21          CHAIRPERSON BROWN: Can we go back to the part of  
22 the agenda for Member Petersen to report his ex partes?

23          BOARD MEMBER PETERSEN: I talked to George  
24 Larson; Paul Turek; Rodney Walter; and Terry Yarbrough,  
25 Chem Waste.



1           CHAIRPERSON BROWN:   Okay.

2           BOARD MEMBER PETERSEN:   Thank you.

3           CHAIRPERSON BROWN:   Thank you.   Now we'll go to  
4 your report.

5           ACTING EXECUTIVE DIRECTOR NAUMAN:   And also good  
6 morning to citizen Bob.   I understand that Bob Conheim  
7 will be listening this morning as we take up the consent  
8 calendar, which includes the final regs for the e-waste  
9 program.   Good morning, Bob.   This is going to be a short  
10 one, so stick with us.

11           Madam Chair and Members, I only have one item to  
12 report in the Executive Director's Report this morning.  
13 But please bear with me.   While it's only one item, it is  
14 rather lengthy.   But it's an important issue, and I want  
15 to make sure that you and the Board members and the public  
16 have a full understanding of this issue.

17           I wanted to talk this morning about the status of  
18 proposed Rule 410 coming from the South Coast Air Quality  
19 Management District.   As you may recall, in March of '05,  
20 staff of the South Coast Air Quality Management District  
21 contacted Waste Board staff regarding proposed Rule 410,  
22 referred to in shorthand as PR 410, which would control  
23 odors at transfer stations and MRFs.

24           As initially proposed, the rule would force  
25 closure of some facilities with consequent environmental

1 impacts associated with transport of solid waste elsewhere  
2 in the region and with significant impacts on local  
3 jurisdiction diversion efforts.

4           In October of '05, Board staff proposed an  
5 alternative approach in which operators would voluntarily  
6 submit an Odor Management Plan to the LEA, and the LEA in  
7 turn would enforce the design and operational aspects of  
8 the plan and work with operators to revise them as needed.  
9 And the South Coast District would be responsible for  
10 addressing community complaints under their existing Rule  
11 402.

12           Then in May of this year, an interested parties  
13 meeting took place where South Coast responded to the  
14 Waste Board's preferred approach and proposed that  
15 operators would either, one, submit an Odor Management  
16 Plan to the district under the prescribed requirements in  
17 their draft rule; or two, receive an exemption from that  
18 requirement if they obtained an alternative LEA approved  
19 order management plan that would then be incorporated into  
20 their reported facility information as an enforceable  
21 document enforceable by the LEA.

22           However, district staff also proposed that a  
23 facility would be subject to enforcement by both the LEA  
24 and the district for the same violation of an LEA approved  
25 Odor Management Plan. In our view, that would constitute

1 an overlap of enforcement efforts and lead to regulatory  
2 confusion.

3 Board staff feels the proposal is not consistent  
4 with our original proposed approach of using the voluntary  
5 Odor Management Plan, particularly because even within the  
6 exemption pathway it still doesn't avoid overlap of  
7 enforcement, nor rely primarily on our normal LEA  
8 inspection and enforcement procedures.

9 Now, currently the District plans to bring this  
10 item to their January 28th agenda of their Stationary  
11 Source Committee and set a September date for the full  
12 Governing Board to consider adoption of the proposed rule.

13 Given these events, Mark has directed staff to  
14 amend the Board's original proposal to reflect the  
15 District's suggestion that an alternative LEA approved  
16 Odor Management Plan be exempt from PR 410's requirements,  
17 but with the proviso that enforcement of this alternative  
18 Odor Management Plan be vested with the LEA as originally  
19 suggested by Board staff.

20 We've also directed staff to continue discussions  
21 with the district staff, the LEAs, and of course industry  
22 stakeholders on how best to resolve this issue. However,  
23 an agenda item will likely need to come before the  
24 Permitting and Enforcement Committee to seek further  
25 direction, unless you're prepared to give us other

1 direction today.

2 And that concludes our report for this month.

3 Thank you.

4 CHAIRPERSON BROWN: Thank you, Julie.

5 Any questions from the Board members?

6 BOARD MEMBER MULÉ: No. Madam Chair, I just  
7 would like to recommend that we go with Mark's recommended  
8 course of action on this.

9 CHAIRPERSON BROWN: I concur.

10 BOARD MEMBER PEACE: So do I.

11 ACTING EXECUTIVE DIRECTOR NAUMAN: So we will be  
12 prepared to communicate that to the district.

13 CHAIRPERSON BROWN: Thank you.

14 BOARD MEMBER MULÉ: Will we be sending out a  
15 letter then?

16 ACTING EXECUTIVE DIRECTOR NAUMAN: Yes. We will  
17 communicate that in a letter now that we have certainty as  
18 to the July date. There was some question whether or not  
19 they were going to proceed with bringing the item to the  
20 Committee, and Howard got confirmation from the district  
21 staff earlier this week they were planning to proceed.  
22 Given the timing, I think it's essential that we  
23 communicate the Board's position.

24 BOARD MEMBER MULÉ: I agree.

25 CHAIRPERSON BROWN: Thank you very much. So that

1 letter will go out this afternoon, I understand.

2 DEPUTY EXECUTIVE OFFICER LEVENSON: We can  
3 essentially have a draft ready for -- under your  
4 signature, Madam Chair, a draft ready for you this  
5 afternoon, later today for your consideration.

6 CHAIRPERSON BROWN: That would be on behalf of  
7 the entire Board. And I'd like it reflected that is from  
8 the entire Board.

9 DEPUTY DIRECTOR LEVENSON: We'll do that.

10 ACTING EXECUTIVE DIRECTOR NAUMAN: And of course  
11 we'll provide copies to all the members.

12 CHAIRPERSON BROWN: Anything else, Julie?

13 ACTING EXECUTIVE DIRECTOR NAUMAN: Not at this  
14 time. Thank you.

15 CHAIRPERSON BROWN: We will be prepared to move  
16 to the consent agenda. Do we have the consent agenda  
17 prepared?

18 ACTING EXECUTIVE DIRECTOR NAUMAN: Madam, I do  
19 need to interrupt one more time. As you're taking up the  
20 consent calendar, Executive staff and Executive Office  
21 would like to suggest that you consider adding Agenda Item  
22 12 to the consent calendar.

23 As you recall, the Permitting and Enforcement  
24 Committee was prepared to place this item on the consent  
25 calendar, but at that time the copy of the Kings County

1 CEQA findings fact had not been included in the agenda  
2 packet. That document has been added to the packet,  
3 placed on our website per your review and public's review.  
4 Therefore, unless any Board members have questions about  
5 that additional documentation or members of the public  
6 would like to speak to the item, we would suggest that you  
7 consider putting it on the consent agenda consistent with  
8 the Committee's action.

9 CHAIRPERSON BROWN: Okay. Thank you, Julie.

10 Any questions from members?

11 BOARD MEMBER PETERSEN: No. Madam Chair, I'd  
12 like to be able to comment on e-waste regulations.

13 CHAIRPERSON BROWN: Okay, concerning Item 12.

14 BOARD MEMBER PEACE: Do we have some questions?  
15 Do we want to bring it to the Board?

16 BOARD MEMBER MULÉ: No.

17 BOARD MEMBER PEACE: Is there anybody here that  
18 wanted to speak on that?

19 CHAIRPERSON BROWN: Is there any member of the  
20 audience who is here in particular to 12 that would like  
21 to speak? I don't think so.

22 I'm satisfied with the documents that have been  
23 supplied.

24 BOARD MEMBER MULÉ: So am I. So I would like to  
25 put it on consent agenda consistent with our vote at the

1 Permitting and Enforcement Committee meeting.

2 CHAIRPERSON BROWN: Without objection from any  
3 members of the dais, we will move Agenda Item 12 to the  
4 consent calendar. And consent agenda will consist of  
5 Items 1, 2, 4, 5 Revised, 8 Revised, 12 Revised -- I mean  
6 10 Revised, 11, 12, 15 Revised.

7 Can I have a motion?

8 BOARD MEMBER MULÉ: Did we want to hear from  
9 Board Member Petersen regarding Item 8 first?

10 CHAIRPERSON BROWN: Sure.

11 BOARD MEMBER PETERSEN: Thank you, Madam Chair,  
12 Member Mulé.

13 First, this is a huge step on this item, the  
14 e-waste regs for the Board and the staff moving forward on  
15 this program. We've had an 18-month run up to getting the  
16 final regulations in place, learning along the way big  
17 time. This has lead to some modifications in the  
18 regulations before us today, and it's our expectation we  
19 will continue to make changes as experience grows with  
20 this program.

21 Second, and which is really important, I want to  
22 give a shout out to somebody who couldn't be here with us  
23 today but who I'm firmly certain is listening in, citizen  
24 Bob Conheim. See, Bob, we miss you and look forward to  
25 your return soon.

1 And thank you, Madam Chair.

2 CHAIRPERSON BROWN: Thank you, Member Petersen.

3 Do we have a motion on the consent agenda?

4 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
5 the consent agenda.

6 BOARD MEMBER PEACE: Second.

7 CHAIRPERSON BROWN: It's been moved by Member  
8 Mulé and seconded by Member Peace.

9 Kristen, can you call the roll?

10 EXECUTIVE ASSISTANT GARNER: Mulé?

11 BOARD MEMBER MULÉ: Aye.

12 EXECUTIVE ASSISTANT GARNER: Peace?

13 BOARD MEMBER PEACE: Aye.

14 EXECUTIVE ASSISTANT GARNER: Petersen?

15 BOARD MEMBER PETERSEN: Aye.

16 EXECUTIVE ASSISTANT GARNER: Brown?

17 CHAIRPERSON BROWN: Aye.

18 Okay. Now we will move to fiscal consent, and we  
19 will first go to the Sustainability and Market Development  
20 Chair. Member Petersen, do you have any comments?

21 BOARD MEMBER PETERSEN: Yes. My report, Madam  
22 Chair, all the items heard by the Committee last week are  
23 either on the Board's consent calendar or being heard in  
24 the fiscal consent items.

25 CHAIRPERSON BROWN: Thank you.



1           Fiscal consent, John Smith, Item 7.

2           DEPUTY DIRECTOR SMITH: Good morning, Chairman  
3 Brown and Board members. For the record, I'm John Smith,  
4 acting Deputy Director for Waste Prevention and Market  
5 Development.

6           Item 7 is Consideration of a Recycling Market  
7 Development Revolving Loan Program application for  
8 eCullet. This \$850,000 loan is for a startup of very  
9 innovative glass processing facility that will be sited in  
10 the Oakland/Berkeley RMDZ. This facility takes  
11 contaminated and mixed glass from MRFs and collectors and  
12 sorts through a highly sophisticated optical sorting  
13 method and separates the glass in amber and green.

14          The borrower indicates there's already markets  
15 for this glass. They expect to divert 90,000 tons of  
16 glass per year and create 15 additional jobs. Funds will  
17 be used to purchase equipment and provide for working  
18 capital.

19          Staff recommends that the Board approve Option 1  
20 and adopt Resolution Number 2006-126 to approve an RMDZ  
21 loan to eCullet, Inc., in the amount of \$850,000.

22          Any questions?

23          CHAIRPERSON BROWN: Thank you, John.

24          Any questions from any Board members or comments?

25          Member Petersen.

1           MR. PETERSEN: I'd like to make a comment about  
2 the technology and the great work the staff did on this.  
3 This is major breakthrough stuff. Because in the '70s and  
4 '80s, the Glass Packaging Institute spent millions of  
5 dollars out of Washington, D.C., trying to figure out how  
6 to sort glass optically. And I guess these guys have got  
7 it. It's building the marketplace here in California.  
8 Great stuff.

9           CHAIRPERSON BROWN: I agree. Thank you.

10           Any other comment? Can we have a motion?

11           BOARD MEMBER PEACE: I'd like to move Resolution  
12 2006-126.

13           BOARD MEMBER MULÉ: Second.

14           CHAIRPERSON BROWN: It's been moved by Member  
15 Peace and seconded by Member Mulé.

16           Kristen, can you call the roll?

17           EXECUTIVE ASSISTANT GARNER: Mulé?

18           BOARD MEMBER MULÉ: Aye.

19           EXECUTIVE ASSISTANT GARNER: Peace?

20           BOARD MEMBER PEACE: Aye.

21           EXECUTIVE ASSISTANT GARNER: Petersen?

22           BOARD MEMBER PETERSEN: Aye.

23           EXECUTIVE ASSISTANT GARNER: Brown?

24           CHAIRPERSON BROWN: Aye.

25           And we will move next to the Permitting and

1 Enforcement for a report.

2 BOARD MEMBER MULÉ: Thank you, Madam Chair.

3 We heard four items in total: Three permit items  
4 and another item which we are bringing to the full Board  
5 today on landfill postclosure and financial assurance  
6 issues.

7 And that concludes my report. Thank you.

8 CHAIRPERSON BROWN: Thank you.

9 We will go next to Item 14 Revised. That leaves  
10 me, a Committee report, and I will defer my report to  
11 Mr. Lee.

12 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

13 Good morning, Board members. My name is Jim Lee, Deputy  
14 Director for the Special Waste Division.

15 Item 14 is Consideration of Grant Awards for the  
16 Targeted Rubberized Asphalt Concrete Incentive Grant  
17 Program. This item been revised to reflect the Special  
18 Waste Committee's recommendation of targeted RAC grant  
19 funding for the City of San Joaquin in the amount for  
20 \$175,000; the City of Garden Grove in the amount of  
21 \$150,000; City of Monrovia in the amount of \$150,000; and  
22 Orange County Transportation Authority in the amount of  
23 \$150,000.

24 Staff recommends the Board approve the grant  
25 awards to the aforementioned grant applicants and approve

1 Resolution 2006-120 as revised.

2 CHAIRPERSON BROWN: Thank you, Jim.

3 Any questions from Board members regarding  
4 grants?

5 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
6 Resolution 2006-120 Revised.

7 BOARD MEMBER PEACE: Second.

8 BOARD MEMBER PETERSEN: I'll second that.

9 CHAIRPERSON BROWN: It's been moved by Member  
10 Mulé and duly seconded by Member Petersen and Peace.

11 Kristen, can you call the roll?

12 EXECUTIVE ASSISTANT GARNER: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 EXECUTIVE ASSISTANT GARNER: Peace?

15 BOARD MEMBER PEACE: Aye.

16 EXECUTIVE ASSISTANT GARNER: Petersen?

17 BOARD MEMBER PETERSEN: Aye.

18 EXECUTIVE ASSISTANT GARNER: Brown?

19 CHAIRPERSON BROWN: Aye.

20 Item 16.

21 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

22 Board Item 16 is Consideration of Reallocation of  
23 Fiscal Year 2006/07 Funds and Scope of Work for the Tire  
24 Retread Targeted Outreach Materials and Promotional  
25 Training Contract. This is a project to conduct tire

1   retread targeted outreach and promotional training that  
2   was suggested to us by our stakeholders during last year's  
3   reallocation process.

4               Pursuant to Board direction, we are bringing this  
5   item for funding consideration for this project as part of  
6   an early reallocation. The proposed project cost is  
7   \$75,000, which staff recommends be taken from the \$650,000  
8   fiscal year 2006-07 Five-Year Plan line item for support  
9   of other market CIWMB market development activities.

10              The agenda item has been revised to reflect the  
11   Special Waste Committee's endorsement of this  
12   recommendation. Staff recommends the Board approve  
13   Resolution 2006-133 as revised.

14              CHAIRPERSON BROWN: Thank you, Jim.

15              Do we have any questions on Item 16?

16              BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
17   Resolution 2006-122 Revised.

18              BOARD MEMBER PEACE: I'll second it.

19              BOARD MEMBER PETERSEN: Second. Go ahead.

20              CHAIRPERSON BROWN: We're going to start making  
21   you guys Ro-sham-bo. It's been moved by Member Mulé and  
22   doubly seconded by Members Peace and Petersen.

23              Can you call the roll?

24              EXECUTIVE ASSISTANT GARNER: Mulé?

25              BOARD MEMBER MULÉ: Aye.

1 EXECUTIVE ASSISTANT GARNER: Peace?

2 BOARD MEMBER PEACE: Aye.

3 EXECUTIVE ASSISTANT GARNER: Petersen?

4 BOARD MEMBER PETERSEN: Aye.

5 EXECUTIVE ASSISTANT GARNER: Brown?

6 CHAIRPERSON BROWN: Aye.

7 Actually, that was good. I think there's a jinx  
8 involved there for doing it exactly at the same time.

9 BOARD MEMBER PETERSEN: We're good.

10 CHAIRPERSON BROWN: You're very good.

11 Item 17.

12 DEPUTY DIRECTOR LEE: Board Item 17 is  
13 Consideration of Allocation, Scope of Work, and Contractor  
14 for the Development of and Implementation of Universal  
15 Waste Public Service Announcement Campaign.

16 This proposed campaign is a component of the  
17 Board's Universal Waste Action Plan. It is to provide  
18 additional tangible funding support in the amount of  
19 \$50,000 for our u-waste action plan and our outreach  
20 efforts in particular.

21 This item was heard in the Special Waste  
22 Committee and recommended for fiscal consent. However,  
23 there were several questions and comments by Committee  
24 members regarding various aspects of the campaign. These  
25 questions have been addressed in a memo distributed to

1 Board members and available in the back of the room. Jon  
2 Myers of our Office of Public Affairs and his staff are  
3 here today to respond to any questions you may have about  
4 the staff responses to committee inquiries. If there are  
5 no questions, staff recommends the Board approve  
6 Resolution 2006-137.

7 CHAIRPERSON BROWN: Do we have any questions?  
8 Member Petersen.

9 BOARD MEMBER PETERSEN: Yeah. This I believe is  
10 for Tom. We're allocating 50,000 from our discretionary  
11 IWMA funds: Right?

12 DEPUTY DIRECTOR ESTES: Correct.

13 BOARD MEMBER PETERSEN: Without knowing how much  
14 we have in the fund to spend this year. And I was  
15 wondering if we can get a briefing on the new budget and  
16 along with a sense from staff what the timing and process  
17 will be for allocating those funds. Can we do that?

18 CHAIRPERSON BROWN: Actually, I can -- if I could  
19 address some of those concerns.

20 As part of the Board process for contract  
21 concepts, the staff with the Board's direction that we  
22 have already inputted from our priority areas will be  
23 developing an agenda item for discussion later, possibly  
24 September, for what our contract concepts will be proposed  
25 as based on our priority areas. And now that the budget

1 has passed, they will be developing what those contract  
2 concepts are for our consideration in September or  
3 October.

4 BOARD MEMBER PETERSEN: Great. Thanks, Tom.

5 DEPUTY DIRECTOR ESTES: Board Member Petersen, in  
6 terms of amount, it's probably going to be about the same  
7 amount we had last year, in the \$800,000 range.

8 BOARD MEMBER PETERSEN: Okay.

9 CHAIRPERSON BROWN: Any other questions?

10 BOARD MEMBER PEACE: Why in the agenda item it  
11 says fund source, IWMA, \$50,00? Makes it look like that's  
12 all that's available.

13 CHAIRPERSON BROWN: Well, I think because at the  
14 point when the agenda item was raised, we won't have the  
15 exact funds. And that will be determined by, you know,  
16 the budget and allocation the way it is developed; is that  
17 correct?

18 ACTING EXECUTIVE DIRECTOR NAUMAN: This item was  
19 written some time ago. We obviously felt comfortable we  
20 knew we had 50,000, so that's what we showed. But we  
21 didn't want to put a number in we didn't have confidence  
22 in.

23 BOARD MEMBER PEACE: So now that the budget's  
24 passed and stuff, then the other agenda items will reflect  
25 the whole amount that's available?



1           ACTING EXECUTIVE DIRECTOR NAUMAN: Yes. When we  
2 bring the item forward Madam Chair was talking about in  
3 September or October we'll obviously show the entire IWMA  
4 balance and how the proposed allocations work against that  
5 balance.

6           BOARD MEMBER PEACE: Okay. Thank you.

7           CHAIRPERSON BROWN: Any other questions? Could I  
8 have a motion on Item 17?

9           BOARD MEMBER MULÉ: I will move Resolution  
10 2006-137.

11          BOARD MEMBER PEACE: Second.

12          CHAIRPERSON BROWN: It's been moved by Member  
13 Mulé and seconded by Member Peace.

14          Call the roll, Kristen.

15          EXECUTIVE ASSISTANT GARNER: Mulé?

16          BOARD MEMBER MULÉ: Aye.

17          EXECUTIVE ASSISTANT GARNER: Peace?

18          BOARD MEMBER PEACE: Aye.

19          EXECUTIVE ASSISTANT GARNER: Petersen?

20          BOARD MEMBER PETERSEN: Aye.

21          EXECUTIVE ASSISTANT GARNER: Brown?

22          CHAIRPERSON BROWN: Aye.

23          Great. That was very efficient.

24          We will move next to Item 13 for full Board  
25 discussion, and I will go to Mr. Levenson for that

1 presentation.

2           DEPUTY DIRECTOR LEVENSON: Thank you, Madam Chair  
3 and Board members. I'm Howard Levenson with Permitting  
4 and Enforcement Division. And with me to my left is  
5 Richard Castle from the Financial Assurances Section  
6 within the division.

7           I'd like to give you a brief introduction to this  
8 item, and then Richard will give you a more detailed  
9 presentation. And there are a number of reasons for doing  
10 it in this manner. The Committee did provide us with  
11 direction which we'll review. But they also felt this was  
12 important from a policy perspective for the Board -- the  
13 full Board to hear it and provide any further comments and  
14 direction it might wish to.

15           So for the record, this agenda item is entitled,  
16 "Discussion and Request for Direction on Longer-Term  
17 Postclosure Maintenance, Corrective Action, and Financial  
18 Assurance Demonstrations for Landfills."

19           The purpose of the item at the Committee and here  
20 today was to present information on the issue of  
21 longer-term maintenance of closed landfills, particularly  
22 what should happen after the first 30 years of postclosure  
23 and whether owners and operators should be required to  
24 provide financial assurance demonstrations beyond that  
25 30-year period. This is an extremely complicated issue.

1 As those of you who have been in some of the workshops  
2 know, the Committee did provide direction, which we'll go  
3 over, but they did want the full Board to hear this as  
4 well.

5           This issue has received quite a bit of attention  
6 in a variety of venues. The Legislative Analysts' Office  
7 issued a report in April of this year entitled, "Financial  
8 Assurances, Strengthening Public Safety of Waste  
9 Facilities and Surface Mines." The Legislature in passing  
10 this year's budget also directed us to provide a  
11 supplemental budget report in January of 2007 with  
12 follow-up directions indicating what the Board has  
13 directed to us do and where we are in that process.  
14 Assemblymember Montaez has introduced AB 2296 which also  
15 would address this issue. That has its own pathway and it  
16 hasn't effected our deliberations in bringing this item to  
17 you.

18           Nationally this is an item or issue that's been  
19 looked at for years by U.S. EPA and others. The  
20 associations that represent various state and territorial  
21 solid waste managers had a full discussion of this at  
22 their annual conference last year. There's been no  
23 resolution of this, and folks are looking for some  
24 direction on this. So I think it's a very appropriate  
25 issue for the Board to take up as a policy related item.

1           It's also very timely. As Richard will show, we  
2 are nearing the date when landfills will start going past  
3 30 years of postclosure. That doesn't mean next year, but  
4 we're within the 10 to 15 year time frame. And if we're  
5 going to provide or require -- if the State requires an  
6 extension of financial assurance requirements beyond 30  
7 years, this is the time to be considering the details of  
8 how to do that so that owners and operators have  
9 sufficient time to prepare for that.

10           We have been exploring this in a series of  
11 Committee workshops and working group meetings with  
12 interest parties since late 2003. This is not something  
13 that's coming to you on the quick. We've taken our time.  
14 It's come out of the hide of Richard and Garth and Scott  
15 Walker, Mike Wochnick, and a few others, Bernie Vlach.  
16 They've all put in extra time to make this happen, and  
17 we've explored it carefully and systematically.

18           At the same time, complicating this further is  
19 the BKK Class III Landfill situation which as you've seen  
20 in various memos and other reports, we have been trying to  
21 obtain certified closure at that facility. Although this  
22 landfill is not closed, it's not quite closed, so it's not  
23 in the postclosure maintenance period we're talking about,  
24 we have learned some lessons from that situation about  
25 closure and postclosure plans and about financial

1 assurance mechanisms. These are closely related to these  
2 longer-term post 30 year issues we've been exploring.

3           So rather than come to you with a series of  
4 separate items that covered the same kinds of issues and  
5 dealt with the same regulatory and statutory provisions,  
6 it made more sense to us to start by bringing this  
7 altogether in one item. Granted, it's a very dense item,  
8 complicated, but I think it fits together in my mind  
9 better to have it come this way.

10           In listening to Richard's presentation, I would  
11 ask that you keep one primary distinction in mind. It  
12 will help you in terms of the kind of direction we sought  
13 from the Committee. Specifically, we're distinguishing  
14 what might be called the normal postclosure maintenance  
15 activities and financial demonstrations from what might be  
16 called corrective action, the longer-term, less  
17 predictable, but somewhat foreseeable activities and  
18 financial demonstrations.

19           The normal postclosure maintenance activities are  
20 currently required for a minimum of 30 years after closure  
21 until there's no longer a threat to public health and  
22 safety and the environment. These are things like  
23 maintaining the gas control systems and leachate  
24 collection system. Currently, however, financial  
25 assurance demonstrations for these postclosure maintenance

1 activities are only required for the first 30 years, even  
2 though normal maintenance is likely to be required at most  
3 landfills for a longer period of time. This issue is the  
4 primary one that we're suggesting -- that the Committee  
5 directed us to go ahead and initiate a rulemaking on.

6 In contrast, we are distinguishing that from  
7 whether to require financial assurance demonstrations for  
8 longer-term corrective actions. These would be known or  
9 reasonably foreseeable corrective actions such as repair  
10 or replacement of major portions of the environmental  
11 control systems, like the final cover. If there's a  
12 catastrophic event and it requires an immediate or very  
13 large investment, these are the kinds of things that are  
14 not the normal postclosure maintenance activities.

15 Current postclosure maintenance cost estimates in  
16 the plans that have to be approved by the Board and the  
17 current financial demonstrations -- financial assurance  
18 demonstrations do not cover these longer term potential  
19 events. So we sought the Committee's direction on how to  
20 deal with this.

21 We do believe it is possible to extend the  
22 financial assurance regulations for longer than 30 years  
23 for the normal postclosure maintenance activities and to  
24 modify the existing regulations to allow owners and  
25 operators to meet this obligation without substantially

1 increasing costs.

2           The rulemaking that the Committee directed us to  
3 initiate would also include issues relating to improving  
4 closure and postclosure plans and financial demonstrations  
5 based on some of the BKK related issues that we've learned  
6 about, which are detailed in the item. We also would  
7 require plans that describe potential corrective actions  
8 and costs, but not financial assurance demonstrations for  
9 those costs.

10           With respect to this issue of financial assurance  
11 demonstrations for the longer-term corrective actions,  
12 this could be quite expensive, and there are a lot of  
13 complications in terms of how to do this. We think more  
14 detailed study by experts and risk analysis and financing  
15 is needed on the availability and applicability of the  
16 kinds of financial assurance mechanisms that could be used  
17 to cover these longer-term corrective actions. And the  
18 Committee did direct us to go ahead and start working on  
19 bringing concepts back to the Board for consideration of  
20 that issue.

21           This kind of study would include, although it  
22 certainly wouldn't be limited to, options such as a  
23 statewide pool fund. It could be based on the tipping fee  
24 increase. And that's been suggested by some stakeholders,  
25 or it could be based on insurance coverage that defines

1 potential threats posed by the location and conditions of  
2 given landfills. This would be a study that does require  
3 contract funding. It would be a complicated study that  
4 looks at individual risk factors and the pros and cons of  
5 these different options before coming back to you with  
6 recommendations on how to proceed.

7           So we will pursuant to the Committee's direction  
8 and assuming the Board provides the same direction, start  
9 working on that at least a conceptual scope of work for  
10 your consideration.

11           So to wrap up -- and this is just the intro --  
12 intro primarily to make sure you understand that  
13 distinction between the normal activities and the  
14 longer-term activities. I want to reiterate the  
15 Committee's direction to start the informal phase of the  
16 rulemaking and develop a potential study.

17           Now I'm going to turn to Richard, and he's going  
18 to give a longer presentation, which I think is important  
19 for both the record and for the Board's full understanding  
20 and ability to discuss what the Committee's directed us to  
21 do, what we're proposing, so we can proceed with your full  
22 support. Thank you. And I'll introduce Richard Castle.

23           (Thereupon an overhead presentation was  
24 presented as follows.)

25           MR. CASTLE: Thank you, Howard.



1           And actually he said basically everything, so  
2 we'll just repeat it all for you. But I have pictures.

3           My name is Richard Castle. I'm Research Program  
4 Specialist in the Financial Assurances Section. As Howard  
5 said, a number of us have been working on this for quite a  
6 number of years. We had a couple of workshops in November  
7 of 2003, December of 2004, and we had working group  
8 meetings, three of those, since then: August and October  
9 of 2005, and then the last one was in January of this  
10 year.

11           I shouldn't have flipped past that slide yet.

12           We like this picture, because Scott came up with  
13 it or Scott or Mike did in the Closure Branch, and we kind  
14 of give them a little dig.

15           The containment failure is the little blip on the  
16 far right there. And that's what we're kind of concerned  
17 about. Because whether you're talking about facilities in  
18 dry tomb or anaerobic bioreactor landfills which are being  
19 reviewed, the long-term problem is that the waste still is  
20 going to be in the ground. As long as there's a threat,  
21 something can happen down the road, and we won't have a  
22 financial demonstration for that at this point. And if an  
23 operator has completed its operations, there's no more  
24 income for that facility either. So we want to look at  
25 this now. That's why we brought it forward. We have this

1 problem, and we need to look at it.

2 --o0o--

3 MR. CASTLE: As Howard has already said, the  
4 current financial requirements for postclosure maintenance  
5 activities are that the postclosure activities have to  
6 continue for a minimum of 30 years. We have a little bit  
7 of a disconnect in how the requirements in the financial  
8 demonstrations are though, because they're very  
9 specifically that the operator demonstrates 30 years of  
10 financial assurances to the Board. And a question  
11 obviously becomes, what happens in year 31? The waste is  
12 still in the ground. There's still a potential for a  
13 release. The operators aren't just going to close the  
14 gates and walk away. Everybody agrees they still have an  
15 obligation to the facility, but the State doesn't have an  
16 assurance at that point that they'll be able to complete  
17 all their operations.

18 --o0o--

19 MR. CASTLE: A short list of the consensus items  
20 that we gained with the working group were that basically  
21 all the operators do acknowledge that their responsibility  
22 for a closed facility does not end just because 30 years  
23 has passed. That's not the determining factor. Operators  
24 with trust funds, enterprise funds, and insurance policies  
25 are expecting to use the funds available in those

1 mechanisms to actually perform postclosure maintenance.

2 And as they utilize the funds over the 30 years, year 31

3 comes around and there isn't necessarily any funds

4 remaining. And that's a big problem.

5 We think we can deal with that through these

6 regulations, and that's why we think there's some minor

7 fixes we can do if it's the Board's direction to move that

8 way. And a big recent problem has been that the

9 construction costs have far outpaced the inflation costs

10 that we use. And we use the same inflator that's used

11 across the nation to try to get a grip on the escalating

12 costs. But in the last few years, the construction costs

13 have just been way far ahead of that. And we need to look

14 at that and possibly different factors on how to go

15 forward with that.

16 --o0o--

17 MR. CASTLE: What we're looking at for facilities

18 at the Board is for what we look at are 282 solid waste

19 landfills in the state. That's what's within our system.

20 Of those, currently we have 116 of them that are already

21 into the postclosure maintenance requirements. They've

22 already closed the facility, and they're maintaining it.

23 By the year 2021, we will have reached 30 years on the

24 first of those closed facilities. By the year 2040, all

25 of those currently closed facilities will have gone

1 through their 30 years of postclosure maintenance.

2           And what's significant there is we don't have a  
3 fix at this point, and that's not that far in the future.  
4 The reason we're only talking about the 116 closed  
5 facilities is that operating facilities while they have  
6 estimated closure dates, you hear them back there all the  
7 time because they get a permit modification, they expand  
8 the facility. They'll either change the elevation or  
9 change its footprint. We don't know exactly when they're  
10 going to close. These numbers we're looking at here, we  
11 know those facilities are closed and they're in that loop  
12 already.

13                               --o0o--

14           MR. CASTLE: This graph is just a quick  
15 representation of that. It's showing a percentage wise of  
16 the facilities that are in closure now, and those that are  
17 expected to finish their operations and begin postclosure  
18 maintenance over the next 21 years.

19                               --o0o--

20           MR. CASTLE: In looking at the impact of these  
21 closed facilities, we came up with the total liability for  
22 the 116 sites as a present value of that cost. And by  
23 2040, we're looking at \$150 million on assured non-assured  
24 liability. Eighty-five percent of that is from publicly  
25 operated sites, cities, counties. And by 2054, which is

1 only another 14 years past that, that same unfunded  
2 postclosure maintenance cost is more than 600 million.  
3 And that's represented by about 77 percent of publicly  
4 operated sites.

5           And the distinguishing difference there between  
6 public and private is that most of the public operators  
7 are providing us with a pledge of revenue agreement where  
8 they've identified revenue streams that are consistent  
9 within their financial structure. And a city or county  
10 isn't going to go away. Even if they were in such dire  
11 financial straights they filed bankruptcy, they don't  
12 absolve themselves with their liability. They still are  
13 there to protect their citizens just as the State is here.  
14 But they're not going to disappear. Whereas, a company,  
15 if they were to file bankruptcy, the entity ends. And if  
16 there's no more money available, then there's no more  
17 money available. And the City, County, or State is going  
18 to have to step up to take care of the facility.

19                               --o0o--

20           MR. CASTLE: A graphical representation of the  
21 numbers I just gave you is here. And what we're looking  
22 at is the kind of purplish color, the bluish purple on the  
23 right. It says it's blue, but to my eyes it looks more  
24 purple -- is that 600 million. And that's obviously you  
25 see 600 on the chart. But that's the accumulation of how

1 much that value is. As you can see, it's a mountain of  
2 debt that's growing into the future that we need to try to  
3 have the operators and ourselves come to an agreement on  
4 how we're going to get the assurance that facilities will  
5 be able to continue to be maintained.

6 --o0o--

7 MR. CASTLE: As Howard had said earlier, the  
8 unfunded costs only represent the regular expected  
9 postclosure maintenance costs. These aren't taking into  
10 account any of the large unexpected costs that would be  
11 associated with either earthquakes, floods, or flooding  
12 rains. They're also not taking into account any of the  
13 major repair costs that are in the future in the post  
14 30-year time frame.

15 So we want to be looking at potential of covering  
16 those with better assurances. And as you saw on the chart  
17 earlier, those costs are expected to far outpace the  
18 current postclosure maintenance costs which in quick terms  
19 would be like the mowing the grass. And it's going to  
20 take more than that to continue to maintain the  
21 facilities.

22 --o0o--

23 MR. CASTLE: With the BKK situation, items came  
24 to our attention specifically from that action. And also  
25 some things were just kind of boiling that we realize

1 needed to be fixed. But essentially we realized after  
2 dealing with this problem or continuing to deal with the  
3 problem that the Board, we need to increase our oversight  
4 over the postclosure maintenance plans, look at them a  
5 little bit sharper, apply more focus and review and  
6 approval of the final postclosure projects tied to land  
7 use changes and redevelopment, because those do effect  
8 those closure and postclosure costs, consider allowing the  
9 solid waste disposal and codisposal site program, that's  
10 AB 2136 funds, to be used for landfill closure activities.  
11 That's just a consideration. We're not saying we have to  
12 do that. But that's definitely a consideration.

13           To clarify and strengthen existing insurance  
14 demonstration. What's happening there is insurance is a  
15 great mechanism, but insurance companies are in the  
16 business of making money, not paying out money. And we've  
17 had a problem before when we had a tire facility that  
18 caught on fire with actually making the claim. We made  
19 some modifications to the regs after that. And we thought  
20 we had resolved that situation. And a new twist came up  
21 with the BKK situation, so we want to resolve that in  
22 regulations also. And it's not that we're saying  
23 insurance is bad by any means. It's just that we need to  
24 make sure that they are providing us what we are asking  
25 for and charging appropriately the premium and that we're

1 getting what we're asking for.

2           We need to also clarify and strengthen the  
3 requirements for updating the cost estimates by having a  
4 better third-party cost which would essentially include  
5 prevailing wages and consider different closure and  
6 postclosure cost escalators, as I mentioned earlier. The  
7 prevailing wage is significant because these assurances to  
8 the Board are not just that the operator will perform what  
9 they're supposed to perform at the facility, but should  
10 the operator fail to perform either because they're out of  
11 business or they're just totally reluctant to do as  
12 they're required to do, the Board is obligated to make  
13 sure the actions happen. And that's what the assurance is  
14 for, so that we can spend the money to hire somebody.  
15 When the State steps in to hire a contractor, we have to  
16 pay at the prevailing wage rate. So we need the assurance  
17 to reflect that so that we have enough money set aside for  
18 it. It's not going to be a windfall to the State in the  
19 end. It's just that we are made whole in the end.

20                               --o0o--

21           MR. CASTLE: With the proposed rulemaking, we  
22 looked at three basic items in what we are proposing. And  
23 the questions would be should financial assurances for  
24 postclosure maintenance be extended beyond 30 years. If  
25 the financial assurances require for greater than 30



1 years, what form should they take. And what else should  
2 be included in the cost estimate for postclosure  
3 maintenance and corrective action.

4 --o0o--

5 MR. CASTLE: In answering those, we believe as  
6 staff we need to clarify the financial assurance  
7 requirements, clarify the fact they are for a minimum of  
8 30 years, not for 30 years. So that would be a regulatory  
9 change. That the regulations need to require the  
10 preparation and submittal of known or reasonably  
11 foreseeable corrective action plans for all landfills.  
12 Currently, all landfill operators are required through the  
13 Water Board requirement to provide a reasonably  
14 foreseeable known corrective action plan for exposure to  
15 the water. And the Board acts as the financial assurance  
16 agent, I guess. We receive the demonstrations and review  
17 them. But it's under the Water Board's requirements. We  
18 would like to see the possibility of raising this plan to  
19 an equivalent status as the closure and postclosure  
20 maintenance plans and expand them.

21 It's not going to be a great expansion, but it  
22 could be any threats at the facility, not just next to the  
23 water. And then we would receive those plans. Hopefully  
24 our intent is to receive them at the same time we receive  
25 closure/postclosure maintenance plans, get the corrective

1 action plan. It would be part of the permit actions. So  
2 it would be an elevated status, and we'd have a better  
3 coverage throughout the state.

4 --o0o--

5 MR. CASTLE: We would also like to clarify the  
6 closure/postclosure maintenance and corrective action cost  
7 estimates be based on costs the State may incur. As I  
8 just said, the prevailing wages is a major issue.

9 Clarify the financial demonstrations. Must  
10 assure that funds are fully available upon the request of  
11 the Board. And that's an issue that we had with the  
12 insurance companies about when are they going to actually  
13 pay out. So we want to clarify how that happens.

14 And there's other issues for the inflation  
15 factors and contingencies on the cost estimates. A simple  
16 fix, which isn't going to solve everything, but currently  
17 on closure cost estimates, every estimate besides being a  
18 third-party cost is also required to have a 20 percent  
19 contingency on it for any cost overruns. The postclosure  
20 maintenance cost estimates do not require the same 20  
21 percent contingency. So that 20 percent is going to go a  
22 long ways for helping with this long-term exposure.

23 --o0o--

24 MR. CASTLE: If the financial assurance is  
25 required for greater than 30 years, what should it look

1 like? We think that our current demonstrations would work  
2 pretty well. We need some minor modifications to the  
3 fund, the trust fund, the enterprise funds, the pledges of  
4 revenue, and the financial means test, because they're  
5 currently structured for 30 years. So we would need to  
6 basically re-identify them that they are for a minimum of  
7 30 years until it's no longer a threat.

8           It would take a little bit more of a fix, but we  
9 believe it can be done for the postclosure maintenance and  
10 assurance. The reason it's more of a fix is because the  
11 insurance company now is collecting the premium for that  
12 policy expecting to pay out for 30 years and be done.

13           In that premium, obviously they're expecting to  
14 make a profit in there. They're expecting a certain rate  
15 of return for themselves. And at the end of the 30 years,  
16 they won't have any resources left to continue.

17           A simple fix on the trust fund or enterprise  
18 fund, it doesn't solve the problem. We need to look  
19 further than this. But a first step would be to not allow  
20 them to touch the principle of the fund and have the money  
21 invested. Working just off of the interest, the 20  
22 percent added to the postclosure maintenance cost would  
23 assist us in that. But it doesn't go far enough.

24   --o0o--

25           MR. CASTLE: Looking at how the Board earns money

1 when we have funds available, it's called a surplus money  
2 investment fund. And we tracked it, the returns the  
3 Board's had since 1990. And we had an average of 4.59  
4 percent return. The inflation rate that we've used to  
5 inflate numbers over the same time period has been 2.46  
6 percent, leaving the Board with only 2.13 percent. And  
7 that's not sufficient to carry these well beyond 30 years.  
8 We can get about 40 years out of the 30 years of money on  
9 this kind of return. If we added 20 percent contingency  
10 to the cost estimate, that gets us out a little bit past  
11 50 years. But we still run out of money.

12           And that's this nice little slope here, and you  
13 can see it will reach zero if we don't do something  
14 further to it, or if there isn't a greater interest  
15 earned. Operators could invest a little bit more -- I  
16 don't want to say wisely, because I don't want to say the  
17 fund is not investing wisely, but it's not earning as  
18 great a return as we expect an operator might. But we  
19 need to look at how we might be able to invest money  
20 better or direct operators to invest money to make it a  
21 better return.

22                               --o0o--

23           MR. CASTLE: We also looked at the possibility  
24 for additional types of financial demonstrations. Those  
25 would be annuities, insurance in the form of a guaranteed

1 income contract, which is slightly different than what  
2 we've got right now from the insurance companies, and  
3 additional combinations of mechanisms. We currently allow  
4 basically everything to be combined one with the other.

5 But in this combination what we're talking about  
6 is the possibility of requiring a combination of at least  
7 two different demonstrations so that we don't put all our  
8 eggs in one basket. Because if an operator were to fail  
9 and they had everything in a bonding company and we  
10 started using the funds from the bond company, what if  
11 that bond company failed also? Because insurance  
12 companies do go out of business. Bond companies go out  
13 of business. Banks do on occasion fail. And we're  
14 talking about a large sum of money all tied up with one  
15 financial entity. So we might want to consider requiring  
16 a separate demonstration since we're talking about such a  
17 long time frame also.

18 --o0o--

19 MR. CASTLE: I think these are the last two  
20 slides. The proposed rulemaking -- I don't want to read  
21 through all this. This is just a rehashing of what I just  
22 got through. Basically we've --

23 --o0o--

24 MR. CASTLE: -- got a number of fixes in the  
25 current regulations that we want to go through just for

1 cleanup. And we also know that we need to take care of  
2 some problems that have arisen from the BKK situation with  
3 access to the funds.

4 --o0o--

5 MR. CASTLE: And then the final item is a  
6 proposed study for a statewide study to check to see how  
7 we might possibly work on having operators contribute to a  
8 pooled fund for longer term care and/or corrective action  
9 at closed facilities. Or we want -- we also want to look  
10 at a statewide requirement for some type of insurance  
11 coverage for any cost based at the closed facility that  
12 are not already identified and otherwise assured --  
13 assured to the state.

14 The pooled fund, we had comments at the Committee  
15 meeting that public operators wouldn't necessarily want to  
16 contribute to a pooled fund because they wouldn't be able  
17 to access the funds later. And obviously, we would be  
18 seriously looking at being equitable to all operators.  
19 And if there was such a system set up, we would want to  
20 make sure that any operator, public or private, would be  
21 able to access that. We try to keep it a level playing  
22 field and not treat one unfairly compared to the other.

23 That wraps up my presentation. Any questions, we  
24 are more than happy to attempt to answer for you.

25 DEPUTY DIRECTOR LEVENSON: And I will just close

1 by reiterating on the study portion, this would be looking  
2 at the advantages and disadvantages of these two statewide  
3 kinds of requirements, as well as any others that a  
4 contractor could identify. And we would come back to you  
5 subsequent to that with recommendations on which if any of  
6 those options to proceed with. So we will come to you  
7 with a conceptual scope of work.

8 I also want to acknowledge that we received a  
9 letter -- or the Chair received a letter yesterday dated  
10 July 17th from the Wetlands Landfill Expansion primarily  
11 signed by -- No Wetland Landfill Expansion, Friends of the  
12 Petaluma River, Baykeeper, Sierra Club Marin, and the  
13 Norther California Recycling Association specifically  
14 applauding our efforts to reform these regulations, also  
15 raising some questions about financial means test which we  
16 certainly can provide more information to you. That is  
17 one of the tests -- or the mechanisms that's available.  
18 We are required to offer all the kinds of mechanisms that  
19 are in the federal regulations, although we are able to  
20 put conditions on the use of those different mechanisms.

21 So this is certainly something -- Richard can  
22 speak to this. But this is certainly something we can put  
23 in the proposed rulemaking to see if there are any  
24 modifications to further refine that particular financial  
25 mechanism.

1           MR. CASTLE:  If I may, it's in the item --  
2 included in the item.  I believe it's page 11, a very  
3 brief discussion that we did want to look at the financial  
4 means test, because it's at least 15 years old, and we  
5 wanted to consider updating it at least for inflation over  
6 the last 15 years.  And it's further discussed in the  
7 Attachment 4 to the item.  So it is part of our  
8 consideration.  I didn't make it a major item within the  
9 presentation obviously, but it's one of those cleanup  
10 items we wanted to look at in the proposed rulemaking.

11           CHAIRPERSON BROWN:  Thank you very much, Richard.  
12           The proposed study is part of the rulemaking  
13 process or would proceed or concurrent or completely  
14 separate?

15           DEPUTY DIRECTOR LEVENSON:  It would be separate.  
16 Assuming that the Board is able to fund such a study, we  
17 would proceed down a separate path that we would initiate  
18 the informal part of the rulemaking, as soon as we can,  
19 given staff resources.  You know, it's something we want  
20 to start this year so that we can come to you at some  
21 point in time with a formal 45-day comment period proposal  
22 for formal rulemaking.

23           The study, depending on funding availability and  
24 staffing, could be run simultaneously.  However, that is  
25 for me as an administrator, it's the same person sitting



1 to my left who does all of this along with the normal  
2 day-to-day work on looking at cost estimates and financial  
3 assurances and disbursements. So there's a little bit of  
4 a problem there.

5 But the answer basically is we can run them  
6 concurrently, but not as part of each other.

7 CHAIRPERSON BROWN: Are you working on cloning  
8 too so we can get more of Richard?

9 DEPUTY DIRECTOR LEVENSON: We're going to do a  
10 little genetic engineering.

11 CHAIRPERSON BROWN: Well, obviously Richard, this  
12 is a great presentation, and I'm sorry I missed it during  
13 the Committee meeting. And I appreciate the opportunity,  
14 Member Mulé, for us to have the chance to hear it at the  
15 full Board. It is important. And obviously our primary  
16 purpose here is to protect the public health and safety of  
17 our environment. So in as far as that is our primary goal  
18 here, we do need to address these issues in a somewhat  
19 timely manner, considering that years go by without  
20 addressing these issues. And it's taken you  
21 two-and-a-half years at least to work on this to get it to  
22 this point. So I appreciate that. Thank you very much  
23 for your hard work, Richard.

24 I will see -- are there any questions from any  
25 other members? Member Peace.

1           BOARD MEMBER PEACE: When they said they'd be  
2 bringing like a funding item to us in September with  
3 contract concepts, is this one of the things that we'll  
4 consider?

5           ACTING EXECUTIVE DIRECTOR NAUMAN: Yes. Howard  
6 is nodding. This needs a lot of development, so I'm not  
7 quite sure on the timing. But we'll see what we can  
8 incorporate into this year's plan.

9           DEPUTY DIRECTOR LEVENSON: At least at the  
10 conceptual level. In terms of a detailed scope of work,  
11 that's going to take a bit more work.

12           One of our problems right now is I can't tell you  
13 exactly how much this kind of study should cost. We need  
14 to sit down and do a more detailed scope at some point and  
15 come back. So it could be conceptually in the September  
16 item and then follow up as needed.

17           ACTING EXECUTIVE DIRECTOR NAUMAN: We'll at least  
18 have a placeholder if it's not fully developed.

19           CHAIRPERSON BROWN: Member Petersen.

20           BOARD MEMBER PETERSEN: Howard, Richard, in  
21 thinking about the long term about these sites as what we  
22 just went through, as an asset have we looked at what  
23 would happen if they mine the landfills, pulling off  
24 gases, turning them into recycling parks, is any of that  
25 going to be factored into where we're going on the revenue

1 side? And if so, where would the Board participate in  
2 something like that?

3 MR. CASTLE: At this time, we had not considered  
4 that because we're working under our current requirements  
5 for postclosure maintenance. Obviously, any changes like  
6 that could be reflected in the assurance demonstrations,  
7 because we constantly update the financial demonstration  
8 based on changes to the facility. So if a closed facility  
9 went through the process deciding they were going to mine  
10 out the facility, that would change that postclosure plan.  
11 And we would modify the assurance needed based on that.

12 BOARD MEMBER PETERSEN: But in the study, you  
13 guys are going to take a look at that?

14 MR. CASTLE: The study we're talking about would  
15 be taking a look at the risks, not necessarily the mining.  
16 That would be -- I'm not sure these would mesh, the risks  
17 of the waste in the ground. The thought is a good concept  
18 of how do we get the waste out of the ground. But  
19 currently, that's not the practice. The practice is for  
20 it to be sitting there.

21 BOARD MEMBER PETERSEN: We can do two things;  
22 work on keeping the waste out of landfill. And once we  
23 find a way to get the stuff in the landfill out and  
24 then -- I'm just thinking revenue sources and how things  
25 can pop. It just makes sense to me.

1           DEPUTY DIRECTOR LEVENSON: Perhaps Scott can  
2 speak to this more if needed. Any postclosure maintenance  
3 plan is going to have to detail the kinds of activities  
4 that are ongoing at the site. So the cost estimates for  
5 those activities would have to be included so we can have  
6 an assurance -- commensurate assurance posted for that.

7           There's also the question -- and I think this is  
8 not as directly related. But a postclosure land use  
9 development that Richard raised peripherally and the kinds  
10 of considerations that are going on at BKK where the city  
11 has plans for certain kinds of development, and that  
12 impacts what goes on with the closure activities trying to  
13 mesh those is difficult.

14           And that's, you know -- our obligation is to  
15 ensure that the facility is closed in accordance with  
16 State standards and not so much to foster the development  
17 that a particular entity might wish. We tried to  
18 coordinate the closure of BKK with the city of West Covina  
19 so they can go forward with their postclosure land use,  
20 but it's not our primary goal.

21           But an activity like mining or certainly gas  
22 collection is already ongoing. But any different kind of  
23 activity would have to be included in that plan. So those  
24 are things that we can consider additional provisions in  
25 the regulations to foster that or make sure we cover that.

1 BOARD MEMBER PETERSEN: Good. Thanks, Howard.

2 Richard, thanks.

3 CHAIRPERSON BROWN: Any other questions?

4 BOARD MEMBER PEACE: I don't have any questions.

5 I just had a comment I also made in Committee, but I want  
6 to thank staff again for bringing this forward. I mean,  
7 it's really, really important. We've been discussing  
8 postclosure maintenance issues for at least the three  
9 years since I've been here. We've had numerous workshops.  
10 And the one thing I think we can all agree on, even  
11 industry agrees, is that the 30 years of postclosure  
12 maintenance financial assurances is not nearly enough.

13 The Board already has the regulatory authority to  
14 require postclosure maintenance assurances beyond the 30  
15 years. And we need to protect public health, safety, and  
16 the environment. And we don't want the taxpayers on the  
17 hook for it.

18 So again thank you, staff. This is really  
19 important.

20 DEPUTY DIRECTOR LEVENSON: I'd like to thank the  
21 Board for its support in this activity and just close my  
22 comments by again acknowledging the folks involved who've  
23 really done the bulk of the work: Richard, Mike, Scott  
24 Walker, Garth Adams, Bernie Vlach, as well as our Legal  
25 Office has been involved. So there's been a tremendous

1 amount of expertise brought to this, but we have a long  
2 ways to go.

3 CHAIRPERSON BROWN: Great. Thank you, Howard.  
4 And kudos to all, I'm sure with nodding heads from the  
5 entire dais and those members who are not here.

6 I believe the direction from Committee was to  
7 proceed into the rulemaking process. And without any  
8 voiced opposition from the dais, we will concur with the  
9 Committee's recommendation and direction to staff to  
10 proceed in that process.

11 Do we have any public comment or any new business  
12 to entertain?

13 At this time, we are concluded of our regular  
14 business, and we will adjourn the meeting. Thank you all  
15 very much.

16 (Thereupon the California Integrated Waste  
17 Management Board adjourned at 10:37 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
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8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 27th day July, 2006.

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